

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

UNITED STATES OF AMERICA,) Civil No. 3:10-cv-627
Petitioner,)
v.)
STEVEN R. HOLDER,)
Respondent.)

MEMORANDUM IN SUPPORT OF UNITED STATES'
MOTION FOR ORDER TO SHOW CAUSE

This is a miscellaneous civil action in which the United States seeks to judicially enforce an Internal Revenue Service (“Service”) summons issued to Steven R. Holder (“respondent”) on May 11, 2010, and served upon him on May 12, 2010.

INTRODUCTION

Revenue Officer Nazih Bazzi is attempting to collect income tax liabilities of the respondent for the tax years identified in the Petition to Enforce Internal Revenue Service Summons. In connection with his investigation, he issued and served an Internal Revenue Service summons on the respondent demanding his appearance to testify and to produce books, records, papers and other data in connection with the investigation. The respondent has refused to comply with the summons, despite having been given a second opportunity by letter dated June 30, 2010 demanding his compliance.

As set forth in the Petition and Declaration of Nazih Bazzi, the summons was issued for a proper purpose; the information sought may be relevant to that purpose; the information sought is

not already in the Service's possession; and all required administrative steps have been followed.

The United States requests that the Court enforce the summons.

ARGUMENT

The standards for the enforcement of summonses are well-established. To demonstrate a *prima facie* case for enforcement, the United States must show four elements: (1) that the summons was issued for a proper purpose; (2) that the information sought may be relevant to that purpose; (3) that the information sought is not already in the Service's possession; and (4) that the required administrative steps have been followed. *See United States v. Powell*, 379 U.S. 48, 57-58 (1964); *Spell v. United States*, 907 F.2d 36, 37 (4th Cir. 1990); *United States v. Richards*, 631 F.2d 341, 344 (4th Cir. 1980). In the present case, all four of these elements have been met as explained in the Declaration of Nazih Bazzi and the Petition.

First, the Declaration establishes that the summons was issued for a proper purpose, *i.e.*, to conduct an investigation into the collection of the income tax liabilities of the respondent for the tax years ended December 31, 2005, December 31, 2006, December 31, 2007; and December 31, 2008. Declaration of Revenue Officer Nazih Bazzi ("Bazzi Dec."), ¶ 2.

Second, the information sought by the summons may be relevant to this investigation. More specifically, the books, papers, records, or othis data sought by the summonses are needed to effectuate collection of the tax liabilities of the respondent for the tax years 2005-2008. *Id.* at ¶ 7.

The third requirement states that the Service cannot already be in possession of the summoned data. Revenue Officer Bazzi states that the information sought by the summons is not already in the possession of the Service, thereby satisfying the third requirement. *Id.* at ¶ 7.

Finally, all of the administrative steps for the issuance and service of the summonses have been taken. *Id.* at ¶ 10.

Therefore, the United States has established a *prima facie* case for the enforcement of the summons issued to, and served upon the respondent.

CONCLUSION

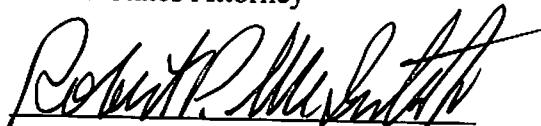
For the foregoing reasons, the Court should issue to the respondent the proposed order requiring him to show cause, if he has any, why the summons issued to, and served upon him should not be enforced. Further, upon the failure of the respondent to show any legally significant reasons for his failure to obey the summons, the Court should enforce the summons in all respects.

DATED: September 2, 2010.

Respectfully submitted,

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